

Baughman, Cat07, Termed

**U.S. District Court
Northern District of Ohio (Akron)
CIVIL DOCKET FOR CASE #: 5:08-cv-01745-SO
Internal Use Only**

Becka v. Huffey Corporation
Assigned to: Judge Solomon Oliver, Jr
Cause: 35:271 Patent Infringement

Date Filed: 07/21/2008
Date Terminated: 07/31/2008
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff**George T. Becka**

Pat. # 5,558,348

represented by **John M. Skeriotis**
Brouse McDowell - Akron
Ste. 500
388 South Main Street
Akron, OH 44311
330-535-5711
Fax: 330-253-8601
Email: jms@brouse.com
ATTORNEY TO BE NOTICED

Joseph T. Dattilo
Brouse McDowell - Cleveland
Ste. 1600
1001 Lakeside Avenue
Cleveland, OH 44114
216-830-6830
Fax: 216-830-6807
Email: jdattilo@brouse.com
ATTORNEY TO BE NOTICED

V.

Defendant

Huffey Corporation
doing business as
Huffey Bicycle Company

Date Filed	#	Docket Text
07/21/2008	<u>1</u>	Complaint with jury demand against Huffey Corporation. Filing fee \$ 350, receipt number 0647000000003116462, filed by George T. Becka.

		(Attachments: # <u>1</u> Exhibit A - U.S. Patent No. 5,558,348, # <u>2</u> Exhibit B - Information regarding Defendants Toy Vehicle, # <u>3</u> Civil Cover Sheet, # <u>4</u> Summons to Huffy Corporation) (Skeriotis, John) (Entered: 07/21/2008)
07/21/2008		(Court only) Utility Event adding attorney Joseph T. Dattilo for George T. Becka. (M,TL) (Entered: 07/21/2008)
07/21/2008		Judge Solomon Oliver, Jr. assigned to case. (M,TL) (Entered: 07/21/2008)
07/21/2008		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge William H. Baughman, Jr. (M,TL) (Entered: 07/21/2008)
07/21/2008	<u>2</u>	Summons and Magistrate Consent Form issued for service upon Huffy Corporation. (Attachments: # <u>1</u> Magistrate Consent Form) (M,TL) (Entered: 07/21/2008)
07/31/2008	<u>3</u>	Notice of Dismissal Under FRCP 41(a)(1) filed by George T. Becka. (Skeriotis, John) (Entered: 07/31/2008)
07/31/2008		(Court only) Case dismissed with prejudice voluntarily by Plaintiff against all Defendants. (D,M) (Entered: 07/31/2008)

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GEORGE T. BECKA)	
11178 Hempstead Lane)	
North Royalton, OH 44113)	CASE NO.
)	
Plaintiff,)	JUDGE:
)	
-vs.-)	
)	
HUFFY CORPORATION)	COMPLAINT FOR PATENT
225 Byers Road)	INFRINGEMENT AND UNJUST
Miamisburg, Ohio 45342-3614)	ENRICHMENT
)	
dba)	
)	
HUFFY BICYCLE COMPANY)	<u>DEMAND FOR JURY TRIAL</u>
6551 Centerville Business Pkwy)	
Centerville, Ohio 45459)	
)	
Defendant)	

Plaintiff George T. Becka, ("Plaintiff"), by his undersigned attorneys, for his Complaint against the above-captioned Defendant Huffly Corporation ("Defendant"), alleges as follows:

THE PARTIES

1. The Plaintiff, George T. Becka, is a resident of North Royalton, Ohio, residing at 11178 Hempstead Lane.
2. Upon information and belief, Defendant Huffly Corporation is an Ohio Corporation having an address of 225 Byers Road, Miamisburg, Ohio 45342-3614 and does business as Huffly Bicycle Company located at 6551 Centerville Business Parkway, Centerville, Ohio 45459.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35, United States Code. Subject matter jurisdiction is based upon 28 U.S.C. § 1338. Personal jurisdiction is based upon F.R.Civ.P. 4(e) and § 2307.382 of the O.R.C., affecting “long arm” jurisdiction based upon Defendant’s contacts with this jurisdiction, Defendant’s doing business in this district, and its commission of acts of infringement of the patent sued upon herein in this district. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400.

FIRST CLAIM FOR RELIEF

Patent Infringement
(35 U.S.C. §271)

4. The Plaintiff is the sole inventor named in and owner of the U.S. Patent No. 5,558,348 (‘348 Patent), which was duly and legally issued September 24, 1996 and which is attached hereto as Exhibit “A”. At all relevant times herein, Plaintiff has been and still is the owner of the ‘348 Patent.

5. The ‘348 Patent claims a plastic toy vehicle having a control handle that allows an adult to control the vehicle.

6. Defendant has manufactured or had manufactured, offered for sale and/or sold a plastic toy vehicle called “Action Sounds Racer” which includes a control handle that allows an adult to control the vehicle, and which functions in every way like the invention claimed in the ‘348 Patent. Information regarding Defendant’s Toy Vehicle is attached hereto as Exhibit B.

7. The Toy Vehicle infringes one or more claims of the ‘348 Patent.

8. Defendant has had full knowledge of the '348 Patent and Plaintiff's rights thereunder but continues to willfully and wantonly infringe, in complete disregard of Plaintiff's rights thereunder.

SECOND CLAIM FOR RELIEF
Unjust Enrichment

9. Paragraphs 1-8 are incorporated herein as set forth in their entirety.

10. Plaintiff is entitled to damages from the infringement of the '348 Patent by Defendant.

11. Defendant's use of Plaintiff's '348 Patent has resulted in a substantial benefit being conferred upon Defendant, at Plaintiff's expense, and without payment to Plaintiff.

12. Defendant's retention of this substantial benefit would be unjust and inequitable.

13. Defendant is obligated to compensate Plaintiff for the substantial benefit conferred upon them and unjustly retained by them, pursuant to a theory of unjust enrichment.

WHEREFORE, Plaintiff demands against Defendant:

1. An injunction against Defendant's continued infringement of the '348 Patent;
2. An accounting of damages resulting from Defendant's infringement and the trebling of such damages because of the knowing, willful and wanton nature of Defendant's conduct;
3. An assessment of interest on the damages so computed, including prejudgment interest;
4. An award of Plaintiff's attorneys' fees and costs in this action; and

5. Such other and further relief as the Court deems just and equitable in the premises.

BROUSE MCDOWELL

/s/ John M. Skeriotis
Joseph T. Dattilo
jtd@brouse.com
1001 Lakeside Avenue, Suite 1600
Cleveland, Ohio 44114-1151
Telephone: (216) 830-6830
Facsimile: (216) 830-6807

John M. Skeriotis (#0069263)
jms@brouse.com
388 S. Main St., Suite 500
Akron, OH 44311-4407
Telephone: (330) 535-5711
Facsimile: (330) 535-5000
Attorneys for Plaintiff George T. Becka

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

July 21, 2008
Date

/s/ John M. Skeriotis
John M. Skeriotis
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GEORGE T. BECKA

Plaintiff,

-VS.-

HUFFY CORPORATION, *et al.*

Defendants

CASE NO.: 5:08-CV-1745

JUDGE: OLIVER

**NOTICE OF DISMISSAL PURSUANT
TO FED.R.CIV.P. 41(A)(1)(a)**

Plaintiff, George T. Becka, in accordance with Rule 41(A)(1)(a) of the Federal Rules of Civil Procedure, hereby dismisses, *with prejudice*, his Complaint against all Defendants.

Respectfully submitted,

BROUSE McDOWELL LPA

/s/ John M. Skeriotis

John M. Skeriotis (#0069263)

jms(a)browse.com

388 South Main Street

Suite 500

Akron, Ohio 44311

330.535.9999 phone

330.535.5000 facsimile

One of the Attorneys for Plaintiff George T. Becka

CERTIFICATE OF SERVICE

I hereby certify that the foregoing NOTICE OF DISMISSAL WITH PREJUDICE PURSUANT TO FED.R.CIV.P. 41(A)(1)(a) is being filed electronically, on this 31st day of July, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ John M. Skeriotis

John M. Skeriotis